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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/730,753

12/08/2003

R. Brent Saunders

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EXAMINER

JAIN, RAJ K

ART UNIT

PAPER NUMBER

2616

MAIL DATE

DELIVERY MODE

05/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/730,753

Applicant(s)

SAUNDERS ET AL.

Examiner

Raj K. Jain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-23 is/are allowed.
- 6) ☒ Claim(s) 1-3, 9, 24, 25, 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 4-8, 26-29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/15/04, 12/8/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 1-31 are objected to because of the following informalities: The claims contain the word "therebetween", examiner believes this word perhaps should have a space between "there" and "between", discretion is left to the applicant based on its appropriateness and proper terminology.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 24, 25, 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Hou et al (USP 6,324,184 B1).

Regarding claims 1 and 24, Hou discloses a method of conducting communications between respective transceivers (Fig. 2) of a communication network using a selected portion of a prescribed communication bandwidth (Fig. 3) containing a plurality of sub-bandwidth channels 320, 330 (fig. 3), said method comprising the steps of:

(a) monitoring said prescribed communication bandwidth for the presence of communication activity on said sub-bandwidth communication channels (see col 3 line

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62 – col 4 line 4), and identifying those ones of said sub-bandwidth communication channels which are absent communication activity as clear channels available for use by said respective transceivers (see col 11 line 10- col 12 line 7, bandwidth usage is monitored amongst various users, 250, 252, 254 and adjusted as needed for each user based on demand and availability.); and

(b) causing said respective transceivers to conduct communications there between using selected ones of said clear channels identified in step (a) (see claims 1 and 4, bandwidth is allocated based on usage and availability).

Regarding claims 2, 25 and 31, Hou discloses wherein claim 1, causing said transceivers to conduct communications therebetween by sequentially using respectively different ones of said selected ones of said clear channels identified in step (a) (see claims 1 and 4, the bandwidth allocation is based on usage and availability and sub-channels are allocated sequentially see Fig. 3, col 10 lines 9-24).

Regarding claims 3 and 25, Hou discloses wherein said communication network contains a master site transceiver and a plurality of remote site transceivers, and wherein communications within said network are between said master site transceiver and said remote site transceivers (see Fig. 2, with 210 as master site and 250-254 as remote sites).

Regarding claims 9 and 30, Hou discloses a general communications channel division (fig. 3), frame size is expressed as the number of slots per frame, and is

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configurable across different frequency channels, thereby allowing a multitude of upstream data rates (see col 1 lines 53-60, col 4 lines 55-67), thus the slot size can be any user defined frequency channel as appropriate.

Allowable Subject Matter

Claims 4-8, 26-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10-23 are allowed:

The prior art fails to disclose or suggest a master site transceiver being operative to compile an aggregate list of clear channels identified by a plurality of remote site transceivers and to transmit a message to said plurality of remote site transceivers containing information representative of said aggregate list of clear channels; and wherein said master site transceiver and a remote site transceiver are operative to conduct communications therebetween using selected ones of said clear channels contained in said aggregate list.

Conclusion

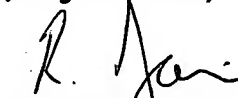
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raj K. Jain whose telephone number is 571-272-3145. The examiner can normally be reached on M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raj K. Jain/



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May 24, 2007